

REMARKS

In the Office Action mailed June 22, 2006, claims 17-20 were rejected under 35 USC §112, second paragraph, as being indefinite, and claims 17-20 were rejected under 35 USC §103(a) as being unpatentable over the applied prior art. In view of the amendments to claims 17-20 and at least for the reasons stated below, the Applicants respectfully request that the Examiner reconsider these rejections and allow all of the pending claims.

Claims 17-20 Rejected Under 35 USC §112, Second Paragraph –

In the previous Office Action, the Examiner rejected claims 17-20 under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. The Applicants have made amendments to claims 17-20 that address some of the concerns raised by the Examiner. It should, however, be pointed out that these amendments are not in response to the application of any prior art, and are only made to more clearly identify the claimed subject matter. Thus, these amendments are not narrowing amendments; rather, some of the amendments, such as to claim 17, broaden the scope of the claims, but do so in a manner that does not render them anticipated or obvious in view of the prior art of record. As a result of these amendments and at least for the following reasons, Applicants respectfully submit that these claims fully comply with 35 U.S.C. § 112.

Claim 17 has been amended to call for a ‘telematics-unit access system’ and a ‘telematics unit of a vehicle’; both terms are consistently used and supported throughout the specification of the application. It is the Applicants’ belief that these changes address the corresponding concerns raised by the Examiner in the previous office action.

As for the Examiner’s various comments regarding the incompleteness of claim 17, additional amendments have been made to claim 17 to improve the form thereof. For example, the later steps concerning determining that the vehicle is powered up and sold are no longer recited as a part of the step of receiving a customer data record, but are now

recited as steps precedent to carrying out the later steps of sending the command signal to the telematics unit, enrolling the customer, and activating the telematics unit based on the command signal. This comports with the embodiments of the invention depicted in Figs. 4-7 wherein it is first determined that the vehicle is powered up (step S408) and sold (step S410) prior to using the processes of Figs. 5-7 to contact and activate the telematics unit based on the customer data received at the call center.

With regard to the use of the terminology "powered up," Applicants respectfully submit that one skilled in the art will recognize that the term indicates that the vehicle is in a condition such that it can carry out the remaining steps of the claimed method. Thus, "powered up" need not necessarily require that the vehicle engine be running or even that the ignition switch is on, but may only require that the telematics unit is receiving power and is capable of receiving the command signal and activating. Thus, Applicants' respectfully submit that this terminology meets the definiteness requirements of 35 USC §112, second paragraph. Citing *Metabolite Labs., Inc. v. Lab. Corp. of Am. Holdings*, the court states,

The requirement to 'distinctly' claim means that the claim must have a meaning discernible to one of ordinary skill in the art when construed according to correct principles... *Only when a claim remains insolubly ambiguous without a discernible meaning after all reasonable attempts at construction must a court declare it indefinite.*¹

In light of the discussion above concerning the meaning of "powered up" to one skilled in the art, it is clear that this language is not "insolubly ambiguous without a discernible meaning."

Although not defined in the specification, the term "sold" as used in the claims is not to be considered in the restrictive sense of involving a transfer of title, but rather transfer of possession, even if temporary, so that for example the term "sold" would include a lease of the vehicle to a customer.

¹ *Metabolite Labs., Inc. v. Lab. Corp. of Am. Holdings*, 370 F.3d 1354, 1366, 71 USPQ2d 1081, 1089 (Fed. Cir. 2004)

Finally, with regard to claim 17, Applicants respectfully disagree with the statement that the claim term “determining whether a customer associated with the customer data record is in the vehicle with the dealer” is *optional*, as proffered in the last Office Action. However, that issue is now moot since the offending limitation has been removed from the claim. The MPEP addresses this issue of optional and exemplary claims terms, and it is noted that at the heart of all of the examples given in the MPEP are terms like “optionally,” “for example,” and “such as.” No such optional language was used in the now deleted claim step.

With regard to claims 18-20, Applicants believe that the amendments currently made to these claims bring the claims into full compliance with the requirements of 35 USC §112, second paragraph. The amendments to claim 18 include specifying that the final two steps are carried out after the activating step, rather than as being a part of it. With regard to the recitation in claim 19 of “performing a preliminary activation,” this again is sufficiently definite to one skilled in the art, since for example with a telematics unit of the type that uses a wireless cellular network, it is known that certain aspects of the initial setup and activation of the telematics unit can be performed prior to full activation of the unit for a customer.

Therefore, in light of these amendments and the Patent Office’s directive that “[s]ome latitude in the manner of expression and the aptness of terms should be permitted even though the claim language is not as precise as the examiner might desire,”² the Applicants respectfully submit that these claims fully comply with 35 USC §112, second paragraph.

Claim 17 Rejected Under 35 USC §103(a) –

In the last Office Action, claim 17 was rejected under 35 USC §103(a) as being unpatentable over Ikeda (US Patent App. Pub. No. 2002/0174360) in view of Smith et al. (US Patent No. 6,879,962). For at least the reasons set forth below, the Applicants respectfully traverse this rejection and ask that the Examiner reconsider and allow the pending claims.

At a threshold level, the Ikeda embodiment that corresponds to FIG. 13 and is relied upon in the previous Office Action does not even pertain to a “method for automated enrollment and activation of a telematics-unit access system,” as called for in amended claim 17. More specifically, FIG. 13 is a diagram of authentication server 800 (drawings refer to it as ‘verification server’), which is simply one of the components shown in the service providing system of FIG. 11. This embodiment is specifically directed to a method and system that enables a user to utilize personal computer 700 to determine the current location of vehicle 100, and has nothing to do with automated enrollment or activation of a telematics-unit access system. Turning now to Ikeda, that reference states,

[0271] In this kind of system, a new service can be achieved whereby the *navigation system 1 is able to transmit present position information showing the present position of the vehicle to the personal computer 700.*

[0272] The following is a simplified explanation of the operation performed when using this service.

[0273] In this case, the *user of the personal computer 700 wishes to know the present position of the car 100* in which the navigation system 1 owned by the user is mounted. In this case, the user launches an application on the personal computer 700, such as a web browser, and by performing a predetermined operation, accesses a web site for the service that provides users with present position information. This web site for the service that provides users with present position information is in the form of a web site that has been uploaded onto the authentication server 800. In other words, by accessing the web site for the service that provides users with present position information, the personal computer 700 accesses the authentication server 800.³ (Emphasis added.)

Not only are the teachings of this Ikeda embodiment wholly unrelated to the method recited in amended claim 17, they clearly suggest that navigation system 1 has already been activated; authentication server 800 would be unable to request the vehicle’s present location from an inactive navigation system 1. Accordingly, if navigation system 1 is already active, then why would this Ikeda embodiment teach a method for activation?

² MPEP §2173.02

³ US Patent App. Pub. No. 2002/0174360; page 14; sections [0271]-[0273]

Amended claim 17 also calls for “sending the command signal to a telematics unit of a vehicle;” a step that is clearly absent from the cited Ikeda sections. In the previous Office Action the Examiner stated,

sending the command signal to a telematics unit (1, 200; fig. 1; i.e. when user accesses website, *the command signal is the signal sent to the user's computer* for user to enter ID, name, etc.; section 0283-0286) of a vehicle.”⁴ (Emphasis added.)

The Applicants respectfully point out that if the signal being sent to the user's computer constitutes ‘the command signal’, as proffered above, then that signal cannot be a command signal sent to a *telematics unit*, as required by the claim. Moreover, it is worth noting that Ikeda sections 0283-0286 do not disclose sending any signals of any kind to a telematics unit, let alone a command signal as taught in the present application. Most of the discussion in those sections is directed to communications between personal computer 700 and authentication server 800.

It is not clear whether US Patent No. 6,879,962 (Smith et al.) or US Patent No. 7,042,334 (Mosgrove et al.) is being relied upon to substantiate the 103(a) rejection of claim 17 (beginning of rejection refers to Smith, end of rejection refers to Mosgrove). In any case, neither of these references make up for the deficiencies discussed above. Therefore, the Applicants respectfully ask the Examiner to reconsider this rejection and allow amended claim 17.

Claims 18-20 Rejected Under 35 USC §103(a) –

Claims 18-20 were also rejected under 35 USC §103(a) as being unpatentable over Ikeda in view of various combinations. In light of the fact that these rejections all rely upon the same Ikeda teachings as discussed above, and that none of the other cited references remedy the specific deficiencies already discussed, the Applicants respectfully traverse these rejections for largely the same reasons as set forth above.

⁴ Office Action dated June 22, 2006; page 4

New Claims 21-35 –

Claims 21-35 are presently being added and recite subject matter that is neither disclosed nor suggested by the cited prior art. More specifically, none of the cited references teach the combination of operation steps called for in the newly added claims. Therefore, the Applicants respectfully ask that the Examiner allow these claims.

In view of the foregoing, Applicants respectfully submit that the application is in condition for allowance. The Examiner is invited to telephone the undersigned if doing so would advance prosecution of this case.

A one month extension of time is requested. The Commissioner is hereby authorized to charge the fee for the extension of time as well as any other required fees, or to credit any overpayment associated with this communication to Deposit Account No. 07-0960.

Respectfully submitted,

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